

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1674.01
COMPLAINT INVESTIGATOR: Jane Taylor-Holmes
DATE OF COMPLAINT: January 18, 2001
DATE OF REPORT: February 13, 2001
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: April 4, 2001

COMPLAINT ISSUES:

Whether the MSD of Lawrence Township violated:

511 IAC 7-27-4(a)(4) with regard to the school's alleged failure to convene a case conference committee (the "CCC") meeting when proposing a change in the student's placement and changing the student's placement to homebound services in the absence of a CCC meeting.

511 IAC 7-27-7(a) with regard to the school's alleged failure to implement the student's *individualized education program* (the "IEP") as written, specifically, providing homebound instruction when the IEP required instruction be at the school.

511 IAC 7-29-2 with regard to the school's alleged failure to utilize the CCC to determine the services to be provided to a student who has been removed from the IEP-identified placement for more than ten consecutive days.

511 IAC 7-29-5(a) with regard to the school's alleged failure to convene the CCC within 10 business days after expelling the student to develop a plan for conducting a functional behavioral assessment or review an existing behavioral intervention plan.

511 IAC 7-29-6(a) with regard to the school's alleged failure, when removing the student from the student's current placement for more than 10 consecutive instructional days, to notify the parent of the decision and provide the parent with the notice of procedural safeguards.

511 IAC 7-29-6(b) with regard to the school's alleged failure to convene the CCC to conduct a manifestation determination within 10 instructional days after removing the student from the student's current placement for more than 10 consecutive instructional days.

During the course of the investigation, an additional issue was identified, which is:

Whether the MSD of Lawrence Township violated:

511 IAC 7-17-36 and 511 IAC 7-18-2 with regard to providing the Student a free appropriate public education ("FAPE").

FINDINGS OF FACT:

1. The Student is 16 years old and is a sophomore at the School. There are two high schools in the Corporation and the School is outside of the Student's attendance area. The Student is eligible for

special education and related services as a student with an emotional handicap ("EH").

2. The Student has a history of aggressive behavioral difficulties resulting in several in-patient stays at local hospitals and court-ordered placements in juvenile facilities. The Student's most recent placement was for one year at a juvenile correctional facility. The Student was released on May 26, 2000, and is on parole.
3. The case conference committee (the "CCC") met on August 16, 2000, and developed the Student's *IEP* for the 2000-01 school year. The *IEP* states that the Student's placement is in the general education classroom with special education and related services provided during the instructional day.
4. The Student received an out-of-school suspension on October 20, 23, 24, and 25, 2000, for placing a 911 call as a hoax from the School.
5. On December 11, 2000, a student from the Home School reported that the Student had threatened to commit a Columbine-style attack at the School. The Director reported that the Student was immediately placed on Homebound, pending receipt of an evaluation from the Psychiatrist to discuss at a CCC meeting.
6. The Complainant reported that the Student had a pre-scheduled 9:00 a.m. appointment with the Psychiatrist on December 12, 2000, for a medication adjustment. The Complainant also reported that due to car trouble after the appointment, the Student only attended approximately the final 15 minutes of the instructional day. The Student rode the bus home that day.
7. The Complainant reported that the Father was called at home by someone from the School on December 12, 2000, and was told that the Student was on emergency Homebound.
8. An e-mail message dated December 12, 2000, indicates that the Teacher of Record contacted the Student's private therapist, the Dawn case manager, and the Student's parole officer regarding the incident. Another e-mail message dated December 12, 2000, written by the Teacher of Record to the Assistant Principal states "[Student] is not here today." The e-mail also states that the Teacher of Record called the Complainant at her office on December 12, 2000, and left a message because the Complainant was not in.
9. In an e-mail message dated December 12, 2000, to the Service Coordinator, the Teacher of Record stated that the Student was on emergency Homebound pending a meeting, and that such a meeting was not possible until at least December 14, 2000. The e-mail also stated "[Student] will be instructed at home by myself or another teacher after school hours."
10. In an e-mail message dated December 13, 2000, the Teacher of Record informed the Assistant Principal, the Director, the Chairman, and the Home School Assistant Principal that the Complainant was notified by the Teacher of Record that the Student was on emergency Homebound pending a case conference committee (the "CCC") meeting. The Teacher of Record also stated the following in this e-mail. "I further explained that the Assistant Principal has asked to speak with the individual at [local children's hospital] who evaluated [Student] yesterday." In another e-mail dated December 13, 2000, to the Assistant Principal and the Chairman, the Teacher of Record stated the following. "The name of the person who evaluated [the Student] is [Psychiatrist]..." The Teacher of Record added that the Psychiatrist was affiliated with the local children's hospital.
11. In an e-mail dated December 14, 2000, the Assistant Principal stated the following to the Director, the Principal, the Home School Principal, the Chairman, and the Teacher of Record. "[Student] is

on emer homebound until the folks at [local children's hospital] get his psych done. They were in the process at the time of this incident..." The Assistant Principal stated that the Psychiatrist's office had been informed about the incident with the Student, and stated the following. "We are waiting on [local children's hospital] to certify he can/can't return."

12. In an e-mail dated December 14, 2000, to the Chairman and the Assistant Principal, the Teacher of Record reported that she had talked with the Complainant about the emergency Homebound and that another special education teacher was given the information to set up the Homebound schedule.
13. The Service Coordinator e-mailed the Teacher of Record on December 18, 2000, requesting the status of the Student. The Service Coordinator also asked "Is he expelled? Is there a case conference scheduled?"
14. The Teacher of Record responded in a December 19, 2000, e-mail "I have no news since [Assistant Principal] spoke with you last week." The Service Coordinator was also informed that Homebound was to begin that evening at 5:00.
15. A special education teacher was assigned to provide Homebound to the Student, which began on December 19, 2000. The special education teacher also presented the Father with a change of placement form to sign. The Father gave written consent on December 19, 2000, to place the Student on Homebound.
16. The CCC did not meet to conduct a manifestation determination. Further, the CCC did not meet to develop a plan for assessing the Student's functional behavior or to review an already existing behavioral intervention plan. Further, the Complainant did not receive notice of procedural safeguards.
17. In an e-mail dated December 22, 2000, to the assistant superintendent for education support services, the Assistant Principal stated the following. "We emergency homebound him and are waiting for a psych to be finished at [local children's hospital] to convene a case conf and decide what to do for the rest of the year." The Assistant Principal also stated in the e-mail that she had received a voice mail from the Psychiatrist who reported that the Student was a threat.
18. The last day of school before the holiday break was December 22, 2000. School resumed on January 8, 2001.
19. The Complainant reported that the Student received a total of five sessions of Homebound. Each session lasted approximately one hour.
20. In an e-mail dated January 7, 2001, to the Assistant Principal, the Home School Principal, the Home School Assistant Principal, the Director, the Teacher of Record, and the secondary coordinator for special education, the Chairman stated that a report was sent from the local children's hospital; however, it was a report written by a social worker after an appointment with the Student on August 24, 2000. There was no current evaluative information contained in the report. The Chairman also wrote that she called the Psychiatrist's office and left an urgent message requesting that someone from the office call the Chairman.
21. The Psychiatrist submitted a letter dated January 8, 2001, to the School. The Psychiatrist wrote the following. "[Student] has a significant history of violence and aggression, and has had difficulty with the law and any threats of continued acting out or violent behavior should be taken seriously and all preventive measures should be employed." The Psychiatrist further wrote, "... it should be noted that medication is unlikely to prevent any violent or aggressive behavior in this child as he

has little remorse or conscience regarding his previous behaviors.”

22. The Student’s CCC met on January 11, 2001. The CCC determined to continue Homebound for the Student until a new psychiatric evaluation was completed. The *IEP* was not revised to address the Student’s educational needs through Homebound. The Student’s parole officer attended and called her supervisor regarding the situation. While the CCC was meeting to discuss changing the Student’s placement, the Student was taken to the juvenile facility because the parole officer’s supervisor determined that the Student’s threat constituted a parole violation.
23. The Student was released from the juvenile facility on February 6, 2001.
24. The CCC met on February 7, 2001. The juvenile facility conducted an evaluation of the Student; and the results of the evaluation were discussed during the meeting. The CCC determined that the Student would meet with personnel from the Corporation’s alternative school on February 13, 2001. The *CCC Report* states the following. “If the [alternative school] does not accept [the Student], the Day Treatment Program will be investigated by [the Director]. Although the Student is not attending School or any program , no arrangements were discussed or made by the CCC to provide Homebound to the Student.

CONCLUSIONS:

1. Findings of Fact #5, #7, #8, #9, #10, #11, #12, #13, #14, #15, #16, #17, and #19 indicate that the Student was placed on Homebound, resulting in a change of placement without benefit of a CCC meeting. A violation of 511 IAC 7-27-4(a)(4) occurred.
2. Finding of Fact #3 indicates that the *IEP* stated that the Student was to be educated at the School in the general education classroom with special education and related services provided during the instructional day. However, Findings of Fact #5, #7, #8, #9, #10, #11, #12, #13, #14, #15, #16, #17, and #19 indicate that the Student’s placement was changed from the general education setting to Homebound without benefit of the CCC meeting and contrary to the *IEP*. A violation of 511 IAC 7-27-7(a) occurred.
3. Findings of Fact #3, #7, #8, #9, #10, #11, #12, #13, #14, #15, #16, #17, #18, #19, and #22 indicate that the CCC meeting did not meet to discuss placement for the Student who had been removed from the *IEP*-identified placement for more than 10 consecutive days. A violation of 511 IAC 7-29-2 occurred.
4. Findings of Fact #5, #7, #8, #9, #10, #11, #12, #13, #14, #15, #16, #17, #18, #20, #21, and #22 indicate that the CCC did not convene within 10 business days after expelling the Student to develop a plan for conducting a functional behavioral assessment or review an existing behavioral intervention plan. A violation of 511 IAC 7-29-5(a) occurred.
5. Findings of Fact #5, #7, #8, #9, #10, and #16 indicate that the Complainant was not provided a notice of procedural safeguards when the Student was removed from his current placement for more than 10 consecutive days. A violation of 511 IAC 7-29-6(a) occurred.
6. Findings of Fact #3, #5, #7, #8, #9, #10, #11, #12, #13, #14, #16, #17, #18, #20, #21, and #22 indicate that the CCC did not meet to conduct a manifestation determination within 10 instructional days of removing the Student from his current placement for more than 10 consecutive instructional days. A violation of 511 IAC 7-29-6(b) occurred.
7. Findings of Fact #7, #8, #15, #18, #19, #22, #23, and #24 indicate that the Student has not been

afforded a consistent FAPE since being expelled for more than 10 consecutive instructional days. Further, although the CCC has met twice since the start of 2001, no arrangements have been made for providing a FAPE to the Student. A violation of 511 IAC 7-17-36 and 511 IAC 7-18-2 has occurred.

The Department of Education, Division of Special Education requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The MSD of Lawrence Township shall:

1. reconvene the Student's CCC meeting no later than February 23, 2001, for the purpose of placing the Student on Homebound until an appropriate placement can be found and agreed upon. Further, the CCC shall review the days that the Student should have been receiving Homebound and compensate the Student with additional Homebound for those missed days. The *IEP* shall be revised with goals and objectives to reflect the educational services that the Student shall receive in the Homebound setting. A copy of the *CCC Report* and *IEP* shall be faxed to the Division no later than the end of the instructional day on February 23, 2001.
2. conduct an inservice training with all School and Home School professional personnel regarding the procedures pertaining to expulsion, functional behavioral assessment and behavioral intervention, and manifestation determination. A copy of the inservice training agenda and materials, along with a sign-in sheet of all attendees by name and title shall be submitted to the Division no later than March 30, 2001.
3. submit statements signed by all School and Home School professional personnel assuring that the procedures pertaining to expulsion, functional behavioral assessment and behavioral intervention, and manifestation determination are understood and will be followed as stated in Article 7. Copies of the signed assurance statements shall be submitted to the Division non later than March 30, 2001.
4. conduct an inservice training with all School and Home School professional personnel regarding the requirement to the conduct the CCC meeting when a student's placement is changed, particularly to Homebound, as indicated in the instant case. A copy of the inservice training agenda and materials, along with a sign-in sheet of all attendees by name and title shall be submitted to the Division no later than March 30, 2001.
5. submit statements signed by all School and Home School professional personnel assuring that the procedures pertaining to changing a student's placement are understood and will be followed as stated in Article 7. Copies of the signed assurance statements shall be submitted to the Division no later than March 30, 2001.
6. conduct an inservice training with all School and Home School professional personnel regarding the requirement to implement student *IEPs*, unless the CCC has made a change in a student's placement and the *IEP* has been revised to reflect said change. A copy of the inservice training agenda and materials, along with a sign-in sheet of all attendees by name and title shall be submitted to the Division no later than March 30, 2001.
7. submit statements signed by all School and Home School professional personnel assuring that the procedures pertaining to implementing student *IEPs* as they are written are understood and will be followed as stated in Article 7. Copies of the signed assurance statements shall be submitted to

the Division no later than March 30, 2001.